

TENNESSEE GENERAL ASSEMBLY
FISCAL REVIEW COMMITTEE



FISCAL MEMORANDUM

HB 954 – SB 1003

April 15, 2011

SUMMARY OF AMENDMENT (006337): Deletes the original bill. Authorizes law enforcement personnel to access the Controlled Substance Monitoring Database if they receive pre-approval from their supervisor, and the list of pre-approved applicants is sent to the District Attorney General of the relevant judicial district by November 20 of each year, who will then forward the list to the Board of Pharmacy by December 1 of each year. Tennessee Bureau of Investigation (TBI) applicants will be pre-approved by their supervisor and division head and their application will be sent to the Board by the Director of TBI. Requires the Board to establish a fee for providing information to law enforcement personnel. Information obtained from the Database by law enforcement can only be shared with other law enforcement personnel, but only upon the direction of the officer or agent who originally requested the information. Authorizes disclosure of information by a licensed practitioner or a pharmacist only to the patient to whom the information relates, other dispensers identified by the information, and any law enforcement personnel to whom reporting of controlled substances is required by Tenn. Code Ann. § 53-11-309. Requires the Board of Pharmacy to send a list containing all requests made for the Database information during the previous six months to each District Attorney General, at least every six months. Requires such list to be sent to the Director of TBI for all TBI agents making requests during the previous six months. Requires the District Attorney General or the Director of TBI to investigate any discrepancies between the list received and investigations in the applicable jurisdiction and to report back to the Board within a reasonable period of time. Requires any findings to be discoverable by a prescriber or pharmacist only after criminal charges have been filed against such prescriber or pharmacist. Creates Class A misdemeanors for: any person who obtains or attempts to obtain information from the Database by misrepresentation or fraud; any person who knowingly uses, releases, publishes, or otherwise makes available to any other person or entity any information submitted to, contained in, or obtained from the database for any purpose other than those specified in this part; intentional unauthorized use or disclosure of database information by law enforcement personnel. Requires the Controlled Substance Database Advisory Committee to examine database information to identify unusual patterns of prescribing and dispensing controlled substances that appear to be higher than normal. Any subsequent investigation by the Board of Pharmacy investigator or by the Health Related Board's Investigation Unit shall be reported back to the Committee and is authorized to be reported to the appropriate District Attorney General if the investigator has reason to believe that a prescriber or dispenser is in violation of a criminal law.

FISCAL IMPACT OF ORIGINAL BILL:

Increase State Revenue – Not Significant/Board of Pharmacy
Increase State Expenditures – Not Significant/Board of Pharmacy
\$8,700/Incarceration*

Increase Local Expenditures – Not Significant

**Tennessee Code Annotated, Section 9-4-210, requires that: For any law enacted after July 1, 1986, which results in a net increase in periods of imprisonment in state facilities, there shall be appropriated from recurring revenues the estimated operating cost of such law. The amount appropriated from recurring revenues shall be based upon the highest cost of the next 10 years.*

FISCAL IMPACT OF BILL WITH PROPOSED AMENDMENT:

NOT SIGNIFICANT

Assumptions applied to amendment:

- The Board of Pharmacy will receive requests for access to the Database for the additional authorized users; will verify the information on the applications submitted by the District Attorney Generals and the Director of TBI on an annual basis; and will ensure that law enforcement personnel enter a case number that will correspond with an investigation before accessing the Database.
- Modification of the software to create a field to enter a law enforcement case number can be performed in the currently prepared system upgrade and will not result in a significant increase in expenditures. Additional requests for access and verification can be accommodated within existing resources.
- Any administrative fees charged to access the Database will not be significant and will be used to offset any costs incurred by the Board of Pharmacy.
- Pursuant to Tenn. Code Ann. § 4-3-1011, all health-related boards are required to be self-supporting over a two-year period. The Board of Pharmacy had a balance of \$74,641.74 in FY09-10 and a deficit of \$59,776.49 in FY08-09. As of June 30, 2010, the Board's cumulative balance was \$276,649.24.
- Based on the information provided by TBI, implementation of the provisions of this bill will result in a not significant increase in expenditures to the Bureau.
- Any fiscal or administrative impact on the District Attorneys Office or local agencies will be not significant and can be accommodated within existing resources.
- Intentional unauthorized use or disclosure of Database information by law enforcement personnel, judicial district drug task force members, or TBI will be punishable as a Class A misdemeanor. There will not be a sufficient number of prosecutions for state or local government to experience any significant increase in revenue or expenditures.

- A small increase in cases in the court system, which will result in additional state and local government expenditures for processing the cases and additional state and local government revenue from fees, taxes and costs collected. These expenditures and revenue are estimated to be not significant.

CERTIFICATION:

The information contained herein is true and correct to the best of my knowledge.

A handwritten signature in blue ink that reads "James W. White" followed by a stylized flourish.

James W. White, Executive Director

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